

REMARKS/ARGUMENTS

The applicants acknowledge, with thanks, the Office Action dated February 17, 2009. Claims have been amended herein. No claims were canceled and no new claims were added. Accordingly, claims 1-40 are currently pending.

Reconsideration of the application as amended is respectfully requested.

The Office Action

Claims 31-40 were rejected in the Office Action of February 17, 2009 under 35 U.S.C. §101 as being directed to non-statutory subject matter. In addition, claims 1-40 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0010661 to Waddington et al. (*hereinafter*, "Waddington").

The Non-Art Matters

The applicants have amended claims 31-40. It is respectfully submitted that the claims as amended are directed to statutory subject matter and, accordingly, now overcome the rejection 35 U.S.C. §101. Accordingly, this rejection should be withdrawn.

The Examiner took the position in the Office Action that "to qualify as a §101 statutory process, the claims should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite subject matter that is being transformed, for example by identifying the material that is being changed to a different state."

As amended, independent claim 31 recites a computer implemented method performed by an associated electronic system for managing items in a supply chain. The claimed computer implemented method comprises capturing, by item information capturing means of the associated electronic system, item identification information associated with a plurality of items associated with unique sources and destination, each of the plurality of items being identified for supply chain management in connection with an associated pooled transport distribution system, and receiving, by a first input of the associated system, user input corresponding to a user-selected consolidation mode relative to consolidation and routing of transport of a set of items associated with the user. The claimed computer implemented method further comprises

receiving, by a second input of the associated system, user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of sources corresponding thereto, and communicating the associated information to an associated data storage device of the associated electronic system for storage in accordance with one of the plurality of sources corresponding thereto. Still further, the claimed computer implemented method comprises commencing distribution of each item of the set of items to its associated destination in accordance with the routing specified by the user corresponding thereto.

Accordingly, it is respectfully submitted that independent claim 31 as amended qualifies as a 35 U.S.C. §101 statutory process for many reasons including because the claim positively recites a particular machine to which it is tied in an embodiment and, in particular, because it identifies the an apparatus in an embodiment that accomplishes the method steps.

Claims 32-40 are dependent from independent claim 31 and are in condition for allowance under 35 U.S.C. §101 based on their dependency and in accordance with the arguments presented above in connection with amended claim 31.

The Art Matters

Claims 1-40 were rejected as being anticipated by Waddington. However, applicants respectfully submit that the claims pending in the instant application as amendment are novel, patentably distinct, and unobvious over Waddington.

In particular, it is well settled that in order for a reference to anticipate the claims pending in an application, each and every feature of the claims must be found identically in the four corners of the art reference,. In the present application, applicants respectfully submitted that the Examiner has not demonstrated that Waddington discloses each and every feature recited in the claims. Accordingly, Waddington does not anticipate the inventions recited in the pending claims as amended. A withdrawal of this rejection is respectfully requested.

By way of general review, the subject application teaches a distribution system by which individual shippers are enabled to achieve individualized control as to shipping, routing and

tracking their orders. This customer control is particularly advantageous in a pooled shipping arrangement, such as an embodiment wherein multiple shippers use shipping channels in common. This is distinctive from more conventional shipping systems, such as FedEx or UPS, wherein a user engages a third-party shipper, specifying the destination and delivery type (such as express, ground, overnight, etc.). In such situations, the sender is unconcerned with routing, and is further at the whim of the shipping company as to which tracking information is available to the sender. The subject application contemplates systems wherein larger volume shippers, for example retailers, have multiple items to ship to multiple locations. Different retailers have different routing that may be optimal, including a shipping path and consolidation of shipments for cost or efficiency reasons. This is especially true when a shipping company concurrently services many retail establishments, each having their own desirable shipping, routing or consolidation needs. The subject application teaches an embodiment wherein a shipper with such sender driven flexibility would be afforded significant competitive advantages over more conventional shipping companies.

Waddington is directed to a distribution system wherein a driver is able to select his or her routing for a particular drop-off run, as well as a standardized tracking system. Each independent claim has been amended to include limitations directed to sender driven reporting and routing in a pooled distribution system. For the reasons discussed earlier, it is submitted that, as amended, all claims now include limitations far removed from the art of record.

With regard to the above, the claims recite an electronic system, a method, and a computer-implemented method for managing items in a supply chain. For example, in the system of independent claim 1, an item information capturing means is adapted for capturing item identification information associated with a plurality of items associated with unique sources and destinations, each of the plurality of items being identified for supply chain management in connection with an associated pooled transport distribution system. A consolidation mode specifying means is adapted for receiving first user input corresponding to a user-selected consolidation mode relative to consolidation and routing of transport a set of items associated with the user. A capturing mode specifying means is adapted for receiving second user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each

capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of sources corresponding thereto. A communicating means is adapted for communicating the associated information to an associated data storage device for storage in accordance with one of the plurality of sources corresponding thereto. Still further, a means of the system is adapted for commencing distribution of each item of the set of items to its associated destination in accordance with the routing specified by the user corresponding thereto.

Waddington falls far short of teaching, suggesting or fairly disclosing these features recited in the independent claims of the instant application.

The Examiner has cited to paragraph [0085] of Waddington for an alleged teaching of item information capturing means adapted for capturing identification information associated with a plurality of items associated with unique sources and destinations, each item being identified for supply chain management in connection with a pooled transport distribution system. However, it is respectfully submitted that this portion or any other portions of Waddington fail to teach, suggest or disclose pooled transportation systems.

As discussed during the Personal Interview of November 13, 2008, a pooled transportation system is one in which a single transportation company receives freight from multiple shippers, all with their own unique barcode labels, data files, delivery instructions and delivery paperwork, creates multi-shipper routes, and delivers freight to each shipper's designated destination. Waddington offers no teachings, however, with regard to this middle step. All Waddington can be fairly attributed to teach is a system for tracking freight direct from a shipper's distribution center to a single delivery destination. Essentially therefore, Waddington has nothing to do with pooled transportation systems or methods for use in or with pooled transportation systems.

Specifically, there is no teaching in paragraph [0085] of Waddington of "each item being identified for supply chain management in connection with a pooled transport distribution system" because, as seen below, this portion of Waddington only discloses:

FIG. 5 illustrates the general operations performed for the delivery of the containers. A more detailed description of the delivery operations will be described below. First, the delivery device 40 downloads a delivery information file from the distribution center computer system at step 50. The labeled

containers or other labeled shipping units containing ordered items, such as cases, bags, coolers and pallets, are loaded onto the delivery vehicle 14 according to the route number 36 on their labels 30 at step 52. Using the delivery device 40, the driver selects a route and stop on the delivery device 40 and stops at the corresponding retail store 16 or customer at step 54. At the retail store 16, the driver scans the barcodes 32 of the labeled containers corresponding to the retail store 16 and unloads those containers at the retail store 16 at step 56. Once all of the containers destined for the retail store 16 are unloaded, the driver obtains a signature with the delivery device 40 of the receiving agent or clerk at the retail store 16 to confirm the delivery of the containers at step 58. After the delivery has been completed at that retail store 16, the driver determines whether that retail store 16 is the last stop at step 60. If additional deliveries must be made at other retail stores 16, the driver returns to step 54 and selects the next stop. If the answer at step 60 is yes, the driver returns to the distribution center 12 at step 62. Upon return to the distribution center 12, the delivery information captured on the delivery device 40 during the deliveries is uploaded to the distribution center computer system.

In addition to the above, the examiner further cites to Figure 1 and paragraphs [0079] and [0097] of Waddington as an alleged teaching of pooled distribution. However, it is respectfully submitted that paragraph [0079] does speak to multiple distribution centers. Although in that paragraph the freight comes from multiple distribution centers to a single delivery destination, there is no teaching or disclosure of the use of a single pool distributor to receive freight from multiple distribution centers of a single shipper or multiple shippers. Figure 1 of Waddington shows multiple stores which disclosure is far short of pooled distribution which is not concerned with making deliveries to multiple stores for a single shipper, but rather making deliveries to multiple stores for multiple shippers. Finally, paragraph [0097] of Waddington uses language of "cross-docking" as taking freight from a larger truck and placing it into several smaller trucks. While this is an accurate description of cross-docking, paragraph [0097] of Waddington only refers to a single shipper's freight being so handled. It does not deal at all with freight from multiple shippers being handled, consolidated onto individual delivery routes, and delivered.

In addition to the above, the Examiner has cited to paragraph [0089] of Waddington for an alleged teaching of consolidation mode specifying means adapted for receiving user input corresponding to a user-selected consolidation mode relative to consolidation and routing of transport of items associated with the user. However, this portion of Waddington only relates to a delivery sequence of a delivery route driver such as described beginning at paragraph [0088] of

Waddington and it has nothing to do with specifying by a user of a consolidation mode for delivery. Rather, in the portion of Waddington cited by the Examiner, as packages are delivered, a record of the delivery is made being either a single container delivery unit in a "normal" delivery mode or a pallet of containers delivery unit in a "pallet" delivery mode. In Waddington, the driver makes a record of the type of deliver after the deliver and not in accordance with delivery directions received from a user such as in the claims of the present application.

Specifically, paragraph [0089] of Waddington only discloses:

If the driver selects the "Route Select" option, the display screen 46 provides a route selection screen 72 as illustrated in FIG. 7. The driver prepares the delivery device 40 for the delivery procedures. The route selection screen 72 lists the distribution center identification number "DC #:" 74, courier identification code "Courier ID:" 76, driver identification "Driver ID:" 78, and Door/Truck number "Door/Truck:" 86. The driver checks the validity of listed identifications. If the identifications are incorrect, the driver selects the appropriate field and enters the correct information. The route selection screen 40 provides a language preference drop list 80, such as English or Spanish that the driver changes using the drop list. Additionally, the route selection screen 72 provides a button group 82 used to choose between a normal mode of delivery where a delivery unit is a single container and a pallet mode where a delivery unit is an entire pallet of containers. The driver selects the appropriate mode by tapping the desired button.

Essentially, paragraph [0089] of Waddington only discloses an ability of selecting between a delivery unit which is either an individual box, etc. or a pallet which would be consolidated. However, in the claims of the instant application as amended, the consolidation mode is concerned with grouping goods or items prior to delivery rather than scanning goods during delivery to confirm their shipment as in Waddington. In the amended claims of the instant application, consolidation mode relates to the building of the pallets at the pool distributor's terminal and not distinguishing between a pallet and a box in the scanner at or during delivery such as on the delivery route..

Still further, the Examiner has cited to paragraph [0085] of Waddington for an alleged teaching of mode specifying means adapted for receiving user input corresponding to each of the plurality of sources, each received user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item information with supply chain information in

accordance with one of the plurality of sources corresponding thereto. Without conceding that Waddington teaches or suggests this, applicants have amended the independent claims herein to clarify that the mode specifying means are capturing mode specifying means. Again, the user in the system recited in the claims provides the input representative of the selection of the at least one of the plurality of capturing modes, not the delivery driver as in Waddington, contrary to the allegations and/or interpretations presented by the Examiner.

Specifically, paragraph [0088] of Waddington only discloses: The delivery device 40 assists the driver with the deliveries. FIG. 4 illustrates the delivery device 40 having a home screen on the display screen 46. The illustrated embodiment depicts the driver device 40 programmed for drivers of McKessonHBOC, assignee of the present application. In other embodiments, the delivery device may be programmed for drivers of other delivery or supply services. The home screen provides the driver with the options of "Route Select," "Preload," "Manifest," "Instructions," and "New Information." The driver selects one of the options by tapping the icon or the field corresponding to the location of the text of the option on the display screen 46. Selection of the "Instructions" option provides a list of topics that explain the features of the delivery device 40. By selecting one of the listed topics, the display screen 46 provides a detailed description of the procedures for the selected topic. Selection of the "New Information" option provides a listing of news alerts from the distribution center 12.

Thus it is clear that there is no teaching or suggestion in Waddington of a user providing input determining a selection of a capturing mode but rather only of a delivery driver selecting options for recording the delivery tasks during the delivery route. There is no teaching or suggestion in Waddington of capturing mode specifying means adapted for receiving second user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item information with supply chain information in accordance with one of the plurality of sources corresponding thereto.

It is respectfully submitted that paragraph [0088] of Waddington only discloses delivery scanning and is not concerned with and does not teach collecting data in other modes, i.e. inbound, outbound, consolidation, pickup, etc. It is further respectfully submitted that each of the other paragraphs cited by the Examiner in the Office Action is incongruous. In particular, it

is respectfully submitted that paragraph [0088] of Waddington does not disclose different operational modes, but rather simply teaches menu options for a single mode, namely “delivery.” Also, it is respectfully submitted that paragraph [0089] of Waddington does not disclose a plurality of sources, but rather just menu options for a single mode – delivery. Still further, paragraph [0085] of Waddington merely discloses upload and download of data from a distribution center computer; not from the pool distributor’s terminal. Also data uploaded is for a single shipper’s freight. In accordance with the present application, in one form, uploaded data is uploaded into the delivery scanner it is for multiple shippers.

Yet still further, the Examiner cites to paragraphs [0011] and [0085] of Waddington for a teaching of means adapted for commencing distribution of each item of the set of items to its associated destination in accordance with the routing specified by the user corresponding thereto. However, again, it is respectfully submitted that Waddington does not teach, suggest or fairly disclose these features and, in particular, Waddington fails to disclose a user specifying in any shape or form, a routing as specifically recited in the independent claims herein. In Waddington, delivery service personnel scan items as they are delivered for recordation purposes, and a user may specify a destination of the one or more items, but the user never specifies a routing.

Waddington fails to disclose means adapted for commencing distribution of each item of the set of items to its associated destination in accordance with the routing specified by the user corresponding thereto because, in Waddington, the user is never provided with the option or ability to select a routing of the items(s).

Paragraph [0011] of Waddington only discloses:

According to another aspect of the present invention, there is provided a method for distributing a plurality of items to a customer. The method comprises placing the items destined for the customer into a shipping unit and placing a label on the shipping unit. The label has a unique identifier used to identify the container and its contents. The method further comprises creating a shipment record identifying the shipping unit by its identifier and listing the items within the shipping unit. The method sends the shipping record to the customer and delivers the shipping unit to the customer. The customer receives the shipping unit and identifies the shipping unit by electronically reading the identifier on the label. The customer verifies the contents of the shipping unit using the listing of the items within the container in the shipping record. The customer electronically records any discrepancy between the contents of the shipping unit and the listing in the shipping record. The method further includes creating a delivery record of the

delivery by electronically reading the identifier as the shipping unit is delivered. A receipt record of the receipt of the shipping unit may also be created by identifying the shipping unit and recording any differences between the items listed on the shipping record and the items within the container. A signature confirming delivery of the shipping unit to the customer may be electronically captured, and the time of delivery may be electronically recorded.

Paragraphs [0011] and [0085] of Waddington merely disclose labeling shipping containers with destination addresses – a common technique in the art. However, these paragraphs of Waddington have nothing to do with the routing of freight to a store as alleged by the Examiner. In accordance with the embodiments of the methods and system of the present application, freight is routed for different shippers on a single route, i.e. a single truck with freight for shipper #1, shipper #2, shipper #3, and shipper #4 would be routed on the single truck to a destination such as a shopping mall, for example, where shippers #1-#4 conduct business.

For at least the above reasons, each of independent claims 1, 11, 21, and 31 are respectfully submitted to be novel, patentably distinct and unobvious over the art of record including Waddington. Claims 2-10 are dependent from independent claim 1. Claims 12-20 are dependent from independent claim 11. Claims 22-30 are dependent from independent claim 21. Claims 32-40 are dependent from independent claim 31.

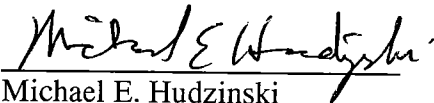
Accordingly, all pending claims are allowable and in condition for allowance.

In accordance with the afore-noted amendments and comments, it is submitted that all claims are patentably distinct over the art, and in condition for allowance thereover. An early allowance of all claims is respectfully requested.

If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 78297/00001.

Respectfully submitted,

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Michael E. Hudzinski
Registration No. 34,185
TUCKER ELLIS & WEST LLP
1150 Huntington Bldg.
925 Euclid Ave.
Cleveland, Ohio 44115-1414
Customer No.: 23380
Tel.: (216) 696-4885
Fax: (216) 592-5009